

The Separation, Appropriation & Loss Initiative: An Scaradh, Toiliú agus Cailleadh Tionscnamh Injustice | Recognition | Restoration | Accountability

Commentary on the Birth Information and Tracing Bill, 2022. An examination, analysis and recommendations

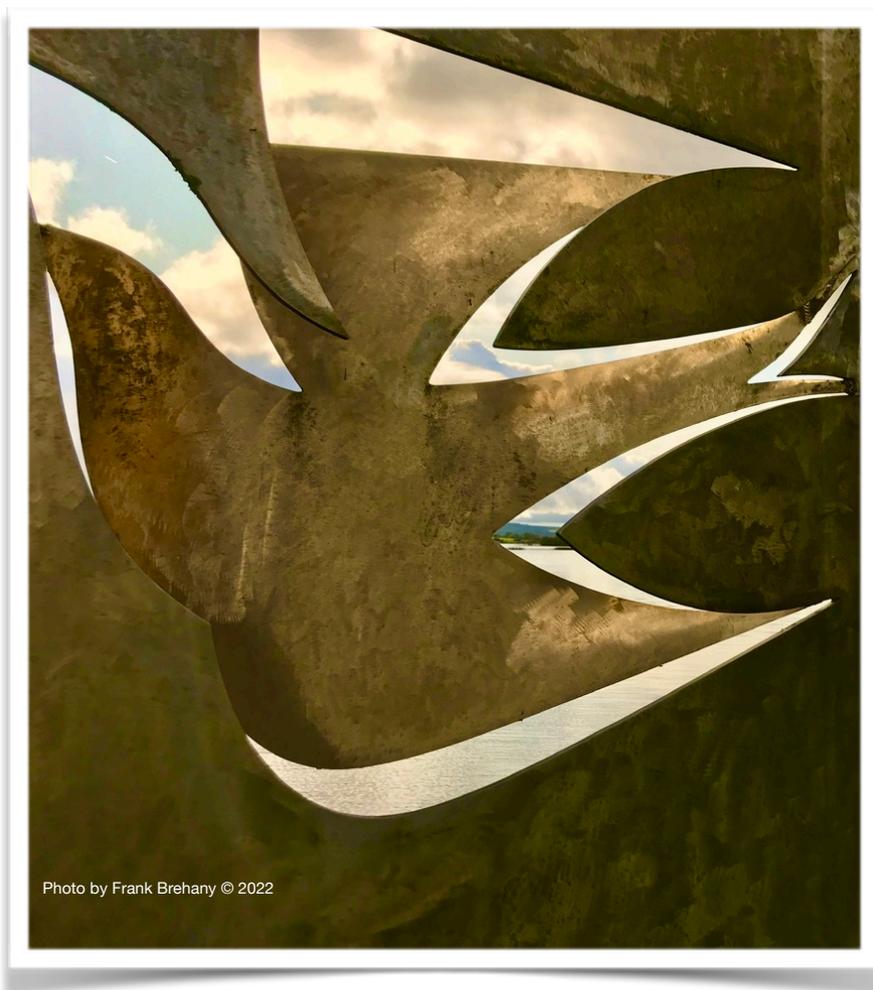


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“Over the past year, I have spoken to hundreds of persons affected by adoption, illegal birth registration, the system of boarding out or the legacy of Mother and Baby and County Home Institutions. I know how important this legislation is to so many of them and that is why I am absolutely committed to advancing it as quickly as possible this year”

Quote from Minister Roderic O’Gorman on the launch
of the Birth Information & Tracing Bill

“The hunger to belong is at the heart of our nature. Cut off from others, we atrophy and turn in on ourselves. The sense of belonging is the natural balance of our lives. Mostly, we do not need to make an issue of belonging. When we belong, we take it for granted. There is some innocent childlike side to the human heart that is always deeply hurt when we are excluded. Belonging suggests warmth, understanding, and embrace. No one was created for isolation. When we become isolated, we are prone to being damaged; our minds lose their flexibility and natural kindness; we become vulnerable to fear and negativity”

“The restlessness in the human heart will never be finally stilled by any person, project, or place. The longing is eternal. This is what constantly qualifies and enlarges our circles of belonging. There is a constant and vital tension between longing and belonging. Without the shelter of belonging, our longings would lack direction, focus, and context; they would be aimless and haunted, constantly tugging the heart in a myriad of opposing directions. Without belonging, our longing would be demented. As memory gathers and anchors time, so does belonging shelter longing. Belonging without longing would be empty and dead, a cold frame around emptiness”

John O'Donohue, Irish Poet & Author

1. Introduction & Summary

The launch of the Birth Information & Tracing Bill (BITB) by the Irish Government is but one of many initiatives offered by the State to assuage the wrongs committed against many thousands of women and children. SALI, the Separation, Appropriation & Loss Initiative provides commentary on the BITB along with recommendations which they view as being necessary to correct inconsistencies in language and actions and to extend the benefits to Victims/Survivors and their families.

The Bill specifically seeks to address the failure of a State's apparatus, to provide access to birth and early life information, all of which is essential to rectify the loss of identity, heritage, culture and to receive crucial information regarding genetic health issues that can have life or death significance for the following generations.

The Irish Government and its supporting Institutions have been trapped in the view that whatever about the rights of surviving 'children', it is the absolute right to the privacy of the Mothers that is paramount.

It is this index position that has caused so much distress amongst Victims/Survivors and their families, leading the Irish Government to now present its new position through this Bill following the publication of the Commission of Investigation Report into Mother and Baby Homes (COIMBHR).

It is important to observe that the COIMBHR has been subject to severe and constructive criticism and a High Court challenge as to its drafting, evidential contamination, conclusions and the failure to provide a right to reply and therefore corrections in the report¹. Compare those lack of rights to the forceful arguments made by religious orders during the Ryan Commission, based on the right to preserve an individual's or organisations good name². These substantial issues have given rise to individuals and civil society organisations, to call for the 'demotion' of the COIMBHR, because its conclusions were based upon the dismissal of personal and harrowing testimonies, ignored or missing facts or corrections.

The BITB has been presented as delivering upon one of the recommendations of the COIMBHR and many conversations with Survivor and Civil Society Groups.

But the arrival of the BITB, rather than providing salve on the wounds of the Victim/Survivor Community, has had the opposite effect. There are many who have offered their misgivings on the content of the BITB, for example on the bureaucratic nature of its rights and obligations, information sessions, failing to cover/remit records beyond the bodies holding their own records and a failure to provide access to key information beyond the limited cohort identified.

To demonstrate the Bill's intentional limitations, we cite the opening paragraphs of the Bill:

¹ <https://www.thejournal.ie/mother-and-baby-home-commission-high-court-settlement-5633597-Dec2021/>

² <https://www.thejournal.ie/mother-and-baby-home-commission-legal-approach-5456553-Jun2021/>

*“An Act to make **further and better provision** in respect of access by **certain persons** to information concerning their origins and, for that purpose, to provide for the access by adopted persons and persons who have been the **subject of incorrect birth registrations** or **certain care arrangements** to their birth certificates and other information and items relating to them; to provide, where such persons are deceased, for the **access in certain circumstances** by their children or other next of kin to such information or items; to provide for the making available, by the Adoption Authority of Ireland and the Child and Family Agency, of a service for the **tracing of certain persons**; to provide for the establishment and maintenance of a register to be known as the Contact Preference Register; to provide for the safeguarding and transfer to the Adoption Authority of Ireland of **certain records** relating to the birth, adoption and care of certain persons...”³*

The issues we have highlighted in the preceding paragraph, provide for an indication or signpost as to how the BITB has been drafted. It is those clearly signposted limitations that this report shall seek to address.

Also key to any consideration in the Irish Republic, through the presentation of this Bill, is the system of illegal adoptions that was practised with relative, complicit ease and the cooperation of the religious orders, both north and south of the border on the island of Ireland. Again, we shall seek to address this key point of access to records through a discussion of these common cross-border issues.

The Separation, Appropriation & Loss Initiative (SALI) has prepared this response to those types of questions, following the recent debate before the Irish Dáil and in time for the Committee of Children, Equality, Disability, Integration & Youth begin their second consideration of the Bill and the potential amendments that they or the Government propose.

Indeed, SALI has noted that the Irish Government has sought to change its position on key matters, such as:

- *“The requirement for the information session to be held by a social worker has been removed.*
- *The information session will include explicit recognition of the identity rights of the applicant and their right to access their birth certificate and birth information.*
- *Next-of-kin will be able to avail of the legislation to access information about a family member in specific circumstances.*
- *The definition of early life information has been expanded to provide for the release of baptismal certificates and entries on the baptismal register.*
- *The legislation will use term ‘mother’ instead of ‘birth mother⁴’ (25/1/2022)*

The authors provide consideration of data and human rights issues, which appear to be provided with limitations.

³ <https://data.oireachtas.ie/ie/oireachtas/bill/2022/3/eng/initiated/b0322d.pdf>

⁴ <https://www.gov.ie/en/press-release/4ac84-minister-ogorman-publishes-birth-information-and-tracing-bill/>

In the creation of this document, the authors are mindful of the following key factors raised by the BITB:

- All births, marriages and deaths from January 1864 including Jewish and non-Roman Catholic marriages since 1845 are a matter of public record accessible via the General Register's Office in Dublin with digital copies available by telephone request or via email;
- However, if an individual is adopted, enquiry must be made to General Register Offices in Roscommon;
- As yet those certificates are not available to the adoptee as a right, although as noted, legislation is currently at Stage 3 in Dáil Éireann, where, if amendments put forward by experts, including adoptees themselves, are adopted, unfettered access will be provided;
- Ten Ministers have held office since the introduction of the Adoption Bill, from Minister Frank Fahey of Fianna Fail who began the process in 2000;
- Too many of our citizens have gone to their graves without being reunited with family members, for example, Philomena Lee and her son Anthony Lee, who were denied that opportunity as a result of the apparent callous behaviour of the Religious Order involved;
- The State is not blameless. Its failure to legislate to provide birth information to adoptees contrasts sharply with our nearest neighbours, where legislation provided a route to access in England and Wales in 1975, and in the North of Ireland in 1987;
- The information provided may be considered 'basic' but it is not until one witnesses the impact of withholding of personal information with regard to birth details, health and heritage, that one can appreciate its true importance. It is this information that 'grounds' or 'roots' the individual, not just to family, but to community and country;
- The Mandatory Information Session remains one of the most controversial parts of the Bill;
- In circumstances where the mother does not wish any contact from her son or daughter, a mandatory information session is triggered, where the adoptee engages with a third party who explains the mother's request for privacy;
- We have noted the Minister's change of direction, where a Social Worker is no longer required for such sessions;
- However, it is our collective view that the State continues to treat adoptees, regardless of age, status or circumstance, disrespectfully, dis-compassionately and as being less than cognitively competent; denied certain pieces of information for no good reason that will not withstand scrutiny from a Human Rights perspective;

- As it stands, the concept of an information session is considered deeply offensive by many and wholly unacceptable;
- Proposals have already been offered, with one reasonable alternative to provide the same information by registered post;
- On the question of Illegality – euphemistically referred "incorrect" to as birth registrations, meaning by implication, that it was a mistake. It is clear that there is a prevailing opinion that suggests the State has always known of these "incorrect' or 'false registrations', particularly as the State was processing passports and visas for Religious Orders and there was no external oversight as to the practice of due diligence of the recorded details;
- It is recognised from the independent review by Marion Reynolds into incorrect birth registrations, some adoptions were found to have been falsely registered, thereby illegal, exemplified by registering a child as the natural child to the adoptive parent;
- Language matters, and terms such as "incorrect birth registrations sanitises " what is and indeed was then, illegal;
- The BITB provides no appreciation by the State of the impact of such illegal adoptions on mother and child, immediate and extended family;
- False registrations included, name changes and date of birth, so the opportunity to recover documentary evidence was frustrated, limited or made impossible;
- Expressions used in the BITB must therefore be truthful, in order to restore the narrative from the survivor perspective and at the very least, state 'false registrations' and preferably 'illegal practices' leading to the open knowledge that the falsifying of records was routine and willful;
- On Medical Information, it is impossible to stress the importance of a medical history to a person, when they are seeking quick and early diagnosis;
- As we present with medical conditions, one of the first questions is for family medical history;
- In many survivors cases, a predisposition to an illness, due to genetics, is potentially life threatening without prompt intervention;
- Treatment choices made previously for a close family member and responses to certain procedures and or drugs can dictate how one recovers from serious illness;
- Adoptees seeking such information, appear to be subject to the previously mentioned mandatory 'information' session;

- There is a substantial risk that through the necessity to engage with a third-party represented as a General Practitioner (GP) or medic, will potentially lead to the denial of the adoptees right to information that may actually impact upon or save their life;
- The hallmark of good governance and judicial oversight is the opportunity, afforded to citizens, who feel they have been wronged by the State, to pursue justice through the Courts;
- Recent cases brought under the Judicial Review process, have vindicated survivors, who had participated in the COIMBHR, who considered that their contribution was either altered, or entirely missing from the Commission's Final Report, along with other complaints, including not being afforded the basic Natural Justice right to reply, which was apparently granted to other witnesses/contributors, namely to those persons in previous inquiries from the religious orders;
- The Committee for Children presented a detailed report where they put forward a total of 83 amendments to the Bill;
- One such suggestion being the inclusion of an Appeals Process or oversight mechanism to ensure justice to survivors seeking information under the BITB;
- It is therefore important to a human and civil rights based Irish Society that those affected, have the right and the opportunity to challenge and appeal a decision made under the provisions of the BITB, that they do not agree with, utilising an Independent mediation process without cost to survivors .

Recommendation 1: The SALI recommends that the Irish government imports all of the aforementioned factors, as the basis of reconsidering and re-designing a new methodology for the BITB. It is vitally important therefore, when importing the principles of this section and of other comments and recommendations within this report, that due regard is given to every survivor and their Families, affected by the index and continued failures of State and Religious Institutions. Only then can survivors be confident that they join their fellow Irish Citizens and enjoy the rights that many take for granted.

2. Examination, Comment and Recommendations for the BITB

The Language of the BITB:

SALI has noted the Oireachtas Committee for Children, Equality, Disability, Integration & Youth, pre-scrutiny report on the proposed BITB legislation.

The very first recommendation stated that the Bill needed to be written in “*Plain Text*” given the sensitivity of the issues. However, on reading the BITB, SALI considers that the Bill is difficult read, simply because of the torturous and over-complicated language that is used. So, it appears the government has failed in the very first recommendation from the Committee and in our opinion, this makes the BITB a potentially a difficult read for most people, even more difficult for those who are directly impacted by its provisions, many of whom were denied access to literacy and educational opportunities due to fostering/adoption and care circumstances. The danger arises that Survivors may give up on their search because of this unnecessary complexity, but also, they may be faced with an ‘Authority’ who may unintentionally interpret and without licence, the Bill’s provisions, simply because the narrative of the Bill is difficult to define.

Recommendation 2: SALI recommends that the Irish Government redrafts the Bill into “Plain Text”, in other words, into useable language that offers clarity of purpose for all parties affected by the provisions of this Bill.

The Opening Statement of the Bill:

SALI has noted the opening statement of the Bill, which provides a clue as to the tone and limitations that follow.

In its opening paragraph, it describes how the Bill proposes to provide:

“...further and better provision in respect of access by certain persons to information concerning their origins”.

SALI considers that, ‘further and better provision’ does not sound the same as an absolute or definitive right; it suggests that what lays ahead in the Bill is conditional.

SALI was equally troubled by the expression, “*certain persons*”; further into the text it refers to “*children*” or the “*next of kin*” of the deceased, to whom the records applied. **By any measure, we considered that what we were about to read was indeed going to provide limitations upon a class or cohort of people who may be searching for their origins.**

But within this paragraph, there was one phrase that stood out above all others and that related to their description of what most people affected by these issues would term as illegal adoptions. To these adoptees, they consider that they had been trafficked, sold and that false or non-existent

documentation had been offered or suggested, to justify their adoptions or placements from Mother and Baby Home or other Institutions, coupled with a denial of information as to their origins.

The BITB describes this particular problem as ***“Incorrect Birth Registrations”***!

The Oireachtas Committee at their recommendation 10, stated that:

“The definition of ‘incorrect birth registration’ in Head 3 should be amended to say ‘falsely or incorrectly recorded’”.

Whilst we considered that this was a step in the right direction, we would go further and offer the following descriptive for birth registration information:

“Illegal, False or Inaccurate Birth Registration”.

This would be the correct terminology and would cover many of the scenarios that adoptees have experienced.

Recommendation 3: SALI recommends that in consideration of the need to redraft the Bill into “Plain Text”, there is a fundamental need to consider the conditional, incorrect and limiting language used by the introduction to the Bill. Reference should be made to our observations and necessary and fundamental changes must be applied.

Recommendation 4: SALI recommends that the phrase - “Incorrect Birth Registrations” should be amended to read - “Illegal, False or Inaccurate Birth Registration”.

Part 2 of the BITB:

SALI has noted the range of definitions contained within the Bill, for example:

“Birth Certificate”

“Birth Information”

“Boarded Out Arrangement”

“Care Arrangement”

“Care Information”

“Early Life Information”

“Genetic Relative”

“Genetic Relative Information”

“Incorrect Birth Registration Information”

“Information Source”

“Primary Information Source”

“Secondary Information Source”

These are just some of the words or phrases that you will find in the Bill, they are important when trying to understand what Rights may or may not be given to any applicant for information on their origins.

A limiting Methodology of the BITB?

The provisions of Part 2 relate to the new Rights that will be afforded to adoptees or indeed other family members. **SALI are concerned that this Section is very detailed and complicated and provides for a methodology that will absolutely baffle most applicants.**

The key features of the Section relate to how a person from the age of 16, can apply for their birth certificate, birth information, early life information, care information, incorrect birth information, provided items (that is to say personal items from an adoptee's early life such as letters or photographs), medical information and the medical information of a genetic relative.

Now all this appears standard processes, until that is, you read through the hoops and hurdles that an adoptee applicant has to jump through or experience.

For example, under an application to the General Records Office, the Office is obliged to inform the Adoption Authority of Ireland. A process is then followed to check whether or not the person whose information that they are seeking, is deceased or has indicated through a complex or historical contact process, whether or not they stated a contact preference or to provide any information. The result is that it could potentially deliver less origin information than expected.

This is seen through the process of seeking information of a genetic relative. The right exists, but again, it has to go through a series of steps in which others can decide either unilaterally what is or is not relevant to the request because of:

- **The current complexity of the Bill, or**
- **Through a failure to understand data protection issues;**

More importantly, the Bill makes it clear that no genetic relative's name or their genetic relationship to the applicant will be provided.

At the very least, the identity of the relationship is not only key to understand health, genetics and origin, but would be a proportionate delivery of information.

Recommendation 5: SALI recommends:

- **The complexity of methodology is re-examined with a purpose to simplify the actual process to access key pieces of origin information;**
- **The complexity of language is reconsidered and redrafted into "plain text" as we have previously recommended;**

- That care is deployed in any use of language that unintentionally imports the potential for an ‘authority’ to interpret data protection rights;
- That in any information relating to a genetic relative, that a re-assessment is carried out about this extremely limiting provision and at the very least, information as to the gender of the genetic relative is provided.

Information Sessions:

SALI has noted the Minister’s concession with regards to Social Workers, his Department states:

*“The requirement for the information session to be held by a social worker has been removed”.*⁵

The status of a Social Worker is but one category of ‘designated person’ as defined by Section 19; it would appear that this is a small concession and leaves the potential for difficulties through other categories of ‘designated person’.

Therefore, whilst the ‘activities of Part 2 are taking place and before information is given to any adoptee applicant, the applicants are then required to attend an information session where they are instructed on the Rights of receipt of any information, the contact preferences of the relative in question and how they must respect the Right to Privacy.

This is a sledge-hammer to crack a nut which offends and questions the common-sense, integrity and values of the adopted person.

The experience of SALI members is that people either wish to maintain their own privacy or waive that right; in the latter scenario, they do so, so that they can tell their testimony and bring about a necessary change in laws or policies that deliver Truth & Justice. If any cohort understands the nature of data and privacy rights, then it is the Survivors of these Institutions historical and current social policies and procedures along with the questionable adoption practices at issue.

Recommendation 6: SALI recommends that the Government abandons the concept of a formal information session and simply provides information with a fact-sheet on the nature of data and privacy rights, without imposing any obligation on the applicant upon receiving that information.

⁵ <https://www.gov.ie/en/press-release/4ac84-minister-ogorman-publishes-birth-information-and-tracing-bill/>

The nature and essence of informed consent:

Sometimes you have to look beyond the words of a dry document to understand or decode the underlying narrative and so too it is the case with Part 2 of the Bill!

SALI recently contributed to the right to information following hearing of a local Councillor on Radio that he had been contacted by concerned women (Mother's etc), frightened apparently by the content of the Bill, who wished their past to be kept private. That is an understandable desire but it wasn't clear just exactly how many women this Councillor had spoken to (it is important to note that 95% of those currently registered for contact with the GRO, expressed a preference for contact).

We need to be always careful of moral outrage dressed up as accepted narrative, designed perhaps to justify a State's actions or knock public opinion off kilter.

The correct response to the Councillor's experience would have been to balance those anecdotal stories against the issue of proportionality. **Is it proportional for a State to introduce measures, that provides a heavy-weighting in favour of what is now a very small grouping of individuals, against a much larger group whose rights have never been delivered?**

On the other side of that question, we must of course, in any great State public issue or question, always guard against the trashing of the rights of others, no matter how small that group may be.

The simple truth is this: we do not know how many women who bore children in these Institutions are still alive. Indeed, at the time they gave their apparent and witnessed consent to surrender their children, what was their state of mind, did they receive independent advices and more importantly, did they have Agency? Was it informed consent? Was it given or obtained freely or under duress? Indeed, if the State seeks to rely on the debatable past wishes of Mothers, alive or dead, we have to ask where exactly and indeed who facilitated that consent and what were the circumstances surrounding that consent?

In our opinion, these important questions are absolutely key to determine whether and how the Rights of a Mother should be guarded, because consent or non-consent, be it informed or not, built on shaky foundations, is not true consent and has all the potential to skew the process outlined in the Bill and deliver a detriment to a wider group of people.

On this question of consent, we note that Part 6 of the Bill creates a Contact Preference Register, which appears to encourage those wishing or not wishing contact, to register their preferences. **But the issue of historical consent can be imported into this new Register from the Adoption Authority of Ireland under Section 42.** Here, their records will be imported and they must then delete their own records within 6 months of doing so. In the febrile atmosphere around this issue, that is not what we would recommend - all records, new or old should be preserved, without distinction, in case errors of transfer are made!

Equally, we must guard against imported ‘consent’ documentation, given the illegality, unreliability and credibility of past practices, because we must always ask how that consent was achieved. Crucial in the rebuttal of these practices will be the surviving/deceased Mother’s testimony or records. The Mother or her family, will need the option to seek state-paid independent advices to challenge the status-quo or the collaboration of the establishment to establish the truth?

Recommendation 7: SALI recommends that on the issue of historical consent that:

- The Irish Government guards against reliance on historical consent as being the justification for measures in the Bill to introduce a disproportionate balance against a greater cohort;
- That in this consideration, the Government must ask the question and investigate how historical consent was obtained before created legislative provisions;
- That a further examination is carried out as to the provisions found under Section 42 and the transference of historical consents and the automatic reliance on those consents in any decision-making process;
- That no ‘authority’ or other body, so transferring data under Section 42, deletes any data within the stated timeframe and that such data is permanently preserved in order to reduce incidents of data loss or errors in data transfers.

The GDPR, Data Rights & the ‘Relevant Body’:

SALI notes that politicians, public-narrative and this Bill makes much of the GDPR. The Bill appears to introduce disproportionate steps or measures which could be viewed as defeating the purpose of accessing data. The question must be asked: **do such measures either directly or indirectly disincentivise those seeking that data and are such measures proportionate?**

In order to understand this question, you have to track through various pieces of EU Treaty Law to be able to get an indication of the answers.

The starting point is the Charter of Fundamental Freedoms of the EU⁶, which under Article 8, guarantees the right for individuals to have their personal data protected. The same Article also guarantees that:

“Everyone has the right of access to data which has been collected concerning him or her”.

Article 7 underpins the Right to: *“his or her private and family life, home and communications”.*

These Rights are given further force under Article 16 of the Treaty for the Functioning of the European Union⁷.

⁶ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>

⁷ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>

To begin to understand the issues of consent and proportionality, we need to look to the GDPR⁸, where consent is defined as:

“consent of the data subject means any freely given, specific, informed and unambiguous indication of the data subject’s wishes by which he or she, by a statement or by clear affirmative action, signifies agreement to the processing of personal data relating to him or her”.

Now you can begin to see why the question of historical consent is problematic, particularly if the person giving that consent is now deceased or indeed that consent was obtained from questionable sources or practices?

Importantly at Preamble 4 of the GDPR, it makes clear that:

“The processing of personal data should be designed to serve mankind. The right to the protection of personal data is not an absolute right; it must be considered in relation to its function in society and be balanced against other fundamental rights, in accordance with the principle of proportionality. This Regulation respects all fundamental rights and observes the freedoms and principles recognised in the Charter as enshrined in the Treaties, in particular the respect for private and family life, home and communications, the protection of personal data... [AND] the right to an effective remedy and to a fair trial...”.

There are so many issues within that paragraph from not having an absolute right to protection to the right to an effective remedy and above all balancing those rights and we would argue, the conditions that led us to where we all are now!

Within the GDPR, individual Rights are contained with Articles 12 to 22. Article 15 (3) gives you the specific right to receive copies of your data, but this is tempered by subsection 4 where the provision of such copies *“shall not adversely affect the rights and freedoms of others”*.

Once you read subsection 4, you then have to return to the question of valid consent and the proportionality of the Bill, raising therefore the question as to whether the proposed Bill is GDPR compliant, or whether it introduces further difficulties and problems for the wider cohort?

Article 23 provides restrictions or exemptions on Rights that the State can deploy when implementing the provisions of the GDPR, and **it is here that many people are concerned that the State has overstepped its powers and are restricting individual rights within the Bill.**

As you would expect, the ‘restrictions’ that can be deployed relate to issues like National Security, Defence or Public Security. There is a lengthy list of such restrictions, but one in particular stands out, that of:

“the protection of the data subject or the rights and freedoms of others”.

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679&from=EN>

Within the second part of Article 23, it sets out the matters that a State must introduce into any legislation where a restriction is relied upon, such as the scope of such measures, the risks of rights and the freedom of others and the rights of data subjects to be informed of such restrictions.

When you look at the proposed Bill, not only does it create a nightmare for adoptees to navigate, but the government is also doing what it no doubt understands as the only way to make it GDPR compliant, that is to import restrictions.

If we are correct in our analysis, then again, we think the Irish Government has failed to understand the nature of this problem and indeed the nature of consent, particularly historical consent.

As the GDPR makes clear, freely given consent is absolutely paramount in applying its provisions. If you do not deal with this thorny problem, then any attempt to balance or weight the Bill's provisions behind the cloak of Article 23 will surely and ultimately fail?

Another important aspect of data and access to data, however, is already taking shape in Europe on the question of the rights of surviving family members to inherit the data of their loved ones.

This issue arose out of a High Court case in Germany^{9 10 11 12} where grieving parents received access to their daughter's entire digital life. This aspect is now being supported in other EU countries (France¹³ and Italy¹⁴), where they are enshrining the inheritance principle of family data in law. **It goes without saying that if this principle applies to a family member's digital life, it could then be argued for any paper records that exist about them.**

It is important to note that under Part 2, Section 9 of the Bill, the applicant would be directed to the 'Relevant Body' to seek early life information. The Bill appoints these Authorities to manage origin information flow to applicants. Under Section 2, 'Relevant Body is defined as 'the Agency' (TUSLA), the Authority (the Adoption Authority of Ireland) and any other Body so appointed under the provisions of the Bill.

As co-Authors, we are concerned by these appointments, partly because of the wider disquiet of the Victim/Survivor Community and partly because of our own direct experience with these

⁹ <https://perma.cc/VT9F-6UAC>

¹⁰ <https://perma.cc/AH7P-GMWM>

¹¹ <https://perma.cc/5KL4-6TMA>

¹² <https://www.loc.gov/item/global-legal-monitor/2020-09-30/germany-federal-court-of-justice-clarifies-scope-of-postmortem-access-to-social-media-accounts/>

¹³ <https://www.lexology.com/commentary/tech-data-telecoms-media/france/fidal/digital-life-after-death>

¹⁴ <https://www.lexamp.it/en/news-en/16-blog-en/104-digital-heritage>

existing agencies. Of equal concern are their counterpart state and voluntary agencies across the border in the North, when access to origin information is multi-jurisdictional in complexity and requisite in co-operation.

To understand the nature of those concerns, we shall highlight the direct experiences of one of the proposed agency appointments, TUSLA.

It is clear from the common experience of Victims/Survivors and their families, that the range of current information that they receive can be stated as:

- Date of entry for a Mother into an Institution;
- Date of entry for a Child into an Institution;
- Date of Birth of the Child;
- Basic origin information of the Mother;
- Where the Child was born;
- Half-yearly health-checks, which when viewed alongside other redacted items tend to suggest that communal & individual health is 'good;'
- Date of discharge of the Mother from an Institution;
- Occasional information as to the onward location of the Mother;
- Date Child was sent for Adoption or Boarding-Out;
- Presentation of costs of upkeep for the Child in relation to recoups of costs with the 'Putative Father's' details being redacted.

Survivors may generally consider the information supplied as indeed valuable, but many soon realise that it is not a complete record.

This is certainly the case when you compare this experience against the range of documents held by TUSLA from Mother and Baby Homes.

For example, the full list of the Bon Secours Tuam Mother and Baby Homes records held by TUSLA, are to be found in the COIMBHR, listed under Part 5 – Archives – pages 59 to 62. In all, TUSLA shared a total of 73 records with the Commission of Investigation, who copied the records with TUSLA apparently maintaining the originals (Part 5 - Page 59 COIMBHR).

By comparison, in a recent FOI made by one of the author's to this report, they sought an index of the Tuam Mother & Baby Home records. The eventual response to the FOI declared that TUSLA held only 45 records.

It is important to note that in the course of dealings with that FOI request, responses delivered a confused and contradictory responses. For example, TUSLA confused a request for an index with a request for personal information, which they claimed, required the applicant to an identification process.

On one key opening question a pertinent and reasonable question was asked: "Does the Department hold the records for the Bon Secours Tuam Mother and Baby Home?".

TUSLA refused to answer the question on the basis of the discretion given to them under Section 12 (1) of the Freedom of Information Act 2014. An examination of Section 12 (1) does not provide an exemption or exception in their ability to answer the question posed. In fact, TUSLA then went onto contradict themselves by supplying the very index to the records which related to the primary question (it should be noted in other FOI's to Government Departments, none have refused or failed to answer the primary question illustrated above).

It is also evident that there is considerable confusion amongst TUSLA staff on the issue of the GDPR and the rights that flow therefrom. An enquiry is often met with the response that they have referred to their policy document created for their benefit.

These experiences therefore shed light on the concerns of the Victim/Survivor Community.

Therefore, we have to ask the question as whether it is reasonably safe to assume that Victim/Survivors only receive the bare minimum of information under the current scheme when maximum disclosure should surely be the new default position?

It should be noted that in one of the Author's direct experience, where they requested records be searched from within the indices for the Tuam Mother and Baby Home, as set out by the COI and TUSLA, their request has been met in total silence.

It raises the further question, whether under the present process or that envisaged by the Bill, whether TUSLA's operations and direct engagement with Victims/Survivors, and their families, is based on an economic model?

Does that economic model limit the extent of the search and information provided by TUSLA against the large number of records held by them?

Are any economic limits imposed by TUSLA itself or from some directive from government, so as to encourage a saving on costs against the pressing needs by right of Victims/Survivors & their families?

If economic limits are imposed by the operations of TUSLA under the present process or indeed by any other suggested Authority, are they done so because of a lack of financial and/or staffing resources available to them?

Is there a need to ensure that any appointed Authority is suitably trained to avoid the delivery of any detriment to any Victims/Survivors and their families?

These are key questions that should be urgently considered rather than simply placing a reliance on the status-quo of an available facility.

Important Questions for TDs & Senators:

- As the GDPR makes clear, freely given consent is absolutely paramount in applying its provisions. If you do not deal with this thorny problem, then any attempt to balance or weight the Bill's provisions behind the cloak of Article 23 will surely and ultimately fail?
- Should we be factoring in the evolutionary growth of access to a person's digital life by reference to paper records?
- Is reasonably safe to assume that Victim/Survivors only receive the bare minimum of information under the current scheme?
- Whether under the present process or that envisaged by the Bill, is TUSLA's operations and direct engagement with Victims/Survivors, and their families, is based on an economic model?
- Does that economic model limit the extent of the search and information provided by TUSLA against the large number of records held by them?
- Are any economic limits imposed by TUSLA itself or from some directive from government, so as to encourage a saving on costs against the pressing needs of Victims/Survivors & their families?
- If economic limits are imposed by the operations of TUSLA under the present process or indeed by any other suggested Authority, are they done so because of a lack of resources available to them?
- Is there a need to ensure that any appointed Authority is suitably trained to avoid the delivery of any detriment of delivery of service and Law to any Victims/Survivors and their families?
- What resources or other solutions can be deployed to increase confidence that records will be found and shared – is reliance on the present structure reasonable?

Recommendation 8: SALI recommends that:

- **The Irish Government publishes its analysis of whether the Bill complies with European Law and whether any restrictions relied upon deliver disproportionality into its provisions;**
- **A clear statement is provided to all parties that privacy is not an absolute right as declared by the GDPR;**
- **In examination of the BITB, the words 'complaints', 'dispute' or 'appeal' does not feature in its text. This suggests that there is no right of challenge, other than appealing to the ICO or going to the courts. Therefore, in order to lessen the distress of applicants, the Government must introduce a Mediation process, paid-for by the State to deal with any potential disputes. If that process fails, then nothing should prevent an applicant from seeking to resolve their complaints through other sources;**
- **The Irish Government should pay heed to the development of National European Law on the question of 'inheritance' of the deceased's data, as outlined in our commentary, and amend the Bill to consider and extend the rights of Survivors;**

- **The Irish government to carefully consider the use of under-resourced existing Bodies and ensure that there is a clear cataloguing, searching and sharing of information with Victims/Survivors and their families.**

Stakeholder Advisory Group:

Another aspect of concern that arose out of reading Part 2, was the fact that throughout the Bill, the Minister is empowered to issue guidelines to the authorities who hold records and defining best practice, without it seems any reference to Victims/Survivors. **A point seemingly ignored by the government and in particular the call for the establishment of a Stakeholder Advisory Group by the Oireachtas Committee.**

Recommendation 9: SALI recommends that the Irish Government establishes a Stakeholder Advisory Group who would be tasked to oversee, consult, to participate and to be given decision-making power and equality in the drafting of guidelines by the Minister. The composition of such a Group should be drawn widely from Civil Society.

The Rights of Extended Family:

We have considered the rights of an extended family to access information highlighted by the Bill. Throughout the Bill we note the very narrow confines of family classes (designated categories) to access information. SALI is mindful of the exponential increase of second-generation family members (that is the sequential inter/trans-generations), those who may be grandchildren or great-grandchildren of family members, we are seeking or beginning their own journeys to establish origin information, perhaps through DNA; this is likely to rise as this latter form of technology increases in reliability and ease of access.

Part 4 is the key provision, providing rights to those qualifying relatives for the information highlighted in the Bill.

However, this Section only applies to information about a relative who died in an Institution listed within the Schedule to the Bill. When this section speaks about qualifying relatives, the extent of that list is somewhat limited and the categories are confined up to nephews or nieces and do not extend further into grandchildren and beyond; it appears that this category is not classed as a 'next of kin'! It appears that they do not even qualify under the definition of a relevant person, but it appears that they could be classed as a genetic relative, but the provision in Part 2 for genetic relatives do not appear to qualify grandchildren or great-grandchildren. We searched for references throughout the Bill and the Guidance to the Bill for Grandparents, Grandmother, Grandfather, Grandson and Granddaughter, but no reference was found - they do not appear to feature in the Bill! Even if they did feature under Part 4, they would again be limited by the requirement that the relative must have died whilst in an Institution

So effectively, you have the likely potential for second-generation family members, to be prejudiced by this Bill, which within our own knowledge, is offered by at least one existing Agency, who believe that this Bill is their best opportunity to extract information. The Government needs

to question as to what is going to happen when other second-generationers or beyond, perhaps through DNA tests, try to discover their past? The answer appears to be that if this Bill fails to even look beyond the narrow confines of its familial definitions, this will no doubt deliver legal challenges and problems into the future!

Recommendation 10: SALI recommends that in its comprehensive review of the Bill:

- **That the familial category of people is defined so widely, that no relative is debarred or suffers from narrow qualifying criteria that the Bill seeks to provide, and**
- **That a greater clarity is given to ensure that such provisions not just apply to those who were 'adopted', but to all those who were subjected to other care arrangements.**

Church & Religious Records:

The most puzzling aspect of the BITB, is its failure to define the extent of records that exist (noted by the Oireachtas Committee), and the limitation of parties holding such records, who are defined as primary and secondary sources of information. Within the dialogue of the Bill, there is absolutely no mention of the Church or Religious Orders, surely key to the consideration of birth, care or early life information?

This lack of clarity is confirmed when you read Part 7 of the Bill.

Here the Bill recognises that other records exist and may well be in the hands of others!

The Bill advises that the Minister has the power to prescribe such records:

- Where they relate to children;
- Where there is a risk of destruction, or
- Where it is in the historical or public interest.

The current Bill allows the Minister to define how such records are to be kept, along with a sources duties and their status as records/data holders & controllers.

Powers are given to have such records transferred into the control of the established Authorities found in this Bill and extensive powers are granted to enter, search and seize for such records.

The members of SALI question whether there is a cat and mouse game between government and the Church & Religious orders?

It is the view of SALI, in light of their own experience and their experience with Victims/Survivors, that the government hasn't committed fully to what should be done what and enforce that public interest. This intriguing Section appears to be holding a threat over the Church and the Religious orders, that if they do not co-operate on some distinct point or other, they may invoke such provisions?

It does however demonstrate that whatever has been said over many years about the difficulty of taking direct action against Church or Religious orders, the Irish government does indeed have a legal concept on how to deal with any reticence. Part 7 reveals that the State can, where there is a political will, deliver a power to legislate against the Church & Religious orders, and they can do so at stealth and at speed in order to protect such valuable origin information; they didn't need the Birth Information & Tracing Bill to do so.

It begs the question: 'If through this Bill, the State is engaged in a carrot and stick approach to the Church and Religious Orders, how can they justify the proportionality of this approach against the complete acquisition of such records, through which there would be a greater benefit to Survivors and their families and of society as a whole?'

Recommendation 11: SALI recommends that the BITB be substantially amended, to immediately freeze any potential dispersive actions and to capture all records held by the Church and Religious Orders or other Organisations (for example, records detailing, birth, baptism, confirmation, marriage, death timelines within diocesan/parish registers; this list is not intended to be exhaustive), that deal specifically with all Magdalene Institutions. Further, the Irish Government should take immediate steps to secure such record holdings, either through direct actions via the courts for example through an ex-parte or without notice interim mandatory injunction, emergency legislation or, through the discretionary powers of the President under Article 13 (9) of the Irish Constitution.

3. Birth Information & Tracing and cross-border issues

A Fundamental Error:

At the heart of this Bill, and indeed within other Bill's produced by the Irish Government, there lays a fundamental error.

The error is found within the absence of measures to deal with or anticipate the rise of cross-border issues between the Republic of Ireland and Northern Ireland.

The concept and conflict of Border:

On the issues related to the entire 'Magdalen' issue, there are two principal parties, each maintaining its historical position; those parties are identified as Church and State.

In this highly controversial subject matter (including within the broader narrative), the error is compounded by the limitations that secular society and its politicians imposes upon itself.

Politics on the island of Ireland imports and remains sanctified or paralysed by the concept of border.

The Church or the Ecclesiastical Authorities by contrast, have operated and continue to operate all matters on an all-Ireland basis.

It is this clash of ideology or modus operandi, that has created a dialogue that speaks not of the border, nor indeed of the many thousands of young Irish children and their Mother's who were trafficked across multiple borders, involuntarily detained, forced into various adoption/fostering arrangements and separated indefinitely, **trafficked and held with impunity by the all-Ireland solution which held finality for those affected and by society at large.**

Whatever the same issues existing within the **Institutional Burials Bill** and the proposed **Irish Government's Redress Scheme**, the Birth Information and Tracing Bill fails to understand and advocate for, the rights of individuals to receive an all-Ireland solution.

Whilst we are critical of the Irish Government on this distinct point, the members of SALI would offer the same critique of the actions of the Northern Ireland Assembly and its Executive.

As this report highlights the glaring error within the Bill, we should also be mindful of the direct impact such an error provides for the Victims and Survivors from a wide range of Institutions.

Case Studies:

Case Example 1:

One example from the North of Ireland stems from the trafficking of children from various children's institutions, often conveniently but incorrectly defined as 'orphanages'. Children often had at least one living parent and were sent to St. Mura's children's 'home' at Fahan¹⁵, Co. Donegal, which continues to remain part of the Diocese of Derry. It has been established by one member of SALI that records associated with Fahan are held as part of at least 15,000 personal and institutional records controlled and held by the NI Family Care Society, the re-invented hybrid of two former Catholic adoption agencies. Whilst there has been an apparent separation of the Society from the Catholic Church, it appears that Board members have clerical representation, the organisation still receives funding from five Catholic church dioceses. In 2021, the Order managing the Fahan site officially handed control of its data information and records to the Society for anyone wishing to access personal information. To make clear, the records for a children's 'home' in County Donegal are not held by the religious order or the State Authorities in the Republic of Ireland, but in a separate jurisdiction for which the contents of this Bill will not provide any rights of access to those records. Naturally, when Victims or Survivors search for their origin information from the Fahan Institution, they are referred to the Diocese of Derry. We understand that they are then subsequently referred to a religious order in the Republic of Ireland, who then refer the enquirers to the Family Care Society in Northern Ireland. To reiterate, the records for a Mother and Baby Home in County Donegal are not held by the religious order or the State Authorities in the Republic of Ireland, but in a separate jurisdiction for which the contents of this Bill will not provide any rights of access to those records.

Case Example 2:

SALI members are aware of those who are seeking origin information from the North and South of Ireland and they are often referred to the Adoption Authority of Ireland, TUSLA or to Agencies in the North of the island. It is frequently the case that despite these referrals, the cross-border referrals continue upon contact with those agencies, often providing reverse contact advisories. Consequently, statutory agencies in either jurisdiction all too frequently incur a limbo status on those seeking information as it appears that no Authority wish to take responsibility for processing access to information.

The result delivers negative effects in opposing jurisdictions, often leading to the disappearance of origin and delivering a class of Citizen who could be classed in their own right as the 'disappeared'.

This is the ultimate consequence of the fundamental error found in this Bill.

¹⁵ <https://www.donegaldaily.com/2021/01/27/infants-frequently-sent-to-donegal-from-ni-mother-and-baby-homes/>

Therefore, it is evident that there is a real detriment to Victims, Survivors and their Families when seeking access to origin information, because in the first instance, they do not know of the location of such information or assume it is held logically in one area. They then suffer a further detriment in being cross-referred, across the border, often being engaged within a 'ping-pong' process to establish location and existence of records.

In Northern Ireland, such is the potential for necessary cross-jurisdictional legal challenge to access information, that a legislative amendment in the form of Preservation of Records, inclusive of Clause 143 A (1b) to prevent transfer of records out of the state, was created and offered to the ongoing Adoption and Children's Bill but was inexplicably refused as being 'out of the scope' by the NI Assembly Speaker and his legal counsel. This amendment has now been re-introduced to the legislative process as a Private Member's Bill under the wing of Alan Chambers of the Ulster Unionist Party in the hope it will succeed in the current mandate. There is no existing statutory compulsion for the religious orders and charitable organisations under scrutiny, to retain, preserve and not destroy all records. The NI government position is currently one of polite request to make all records available for purpose of investigations to be pursued within the remit of an imminent public inquiry into the Mother & Baby, Magdalene and Workhouse institutions from 1922 until circa 1999. SALI would suggest that in any consideration of this issue, that any cut-off date should follow the example provided by the Castle Mother & Baby Institution, Newtowncunningham, Co. Donegal, which closed in 2006, when considering the volume of referrals and available records it received from the North since 1982. As of the 14 March 2022, the Private Member's Bill was given Accelerated Passage through the Assembly and passed its Second Stage of debate subsequently.

As an example of the scale of the issues, the following commentary is taken from the Northern Ireland Report into Mother and Baby Homes and Magdalene Laundries, 1922 to 1990¹⁶:

“There is evidence that a number of babies were moved from mother and baby homes in Northern Ireland to baby homes in the Republic of Ireland and were then adopted in the Republic of Ireland, USA and Britain. For the vast majority of cases, the researchers were unable to pursue the adoption routes involved for a number of reasons. Adoption certificates are held at GRONI but these record the adoptive name of a child, and the name of their adoptive parents, information that the research team did not have access to in many cases. In cases where cross-border adoptions took place, there is the additional complication that relevant certificates may be held in the Republic of Ireland. Without access to individual adoption files held by adoption agencies, Health and Social Care Trusts or the Courts in Northern Ireland (and/or the Republic of Ireland), at this point it cannot be confirmed that these adoptions were carried out following due legal process”.(Page 28).

In addition, reference should also be made to Appendix 1 of that report for further details and information¹⁷.

It is also important to demonstrate the attempted progress in Northern Ireland to resolve these historical adoption issues. Following the Truth Recovery Process in 2021, it was the hope of the Adoption Practice Group to explore the possibilities of discussing potential changes to adoption and social policy, including a better understanding of GDPR issues in the North of Ireland. Victims

¹⁶ <https://www.health-ni.gov.uk/publication-research-report-mbhml>

¹⁷ <https://www.health-ni.gov.uk/sites/default/files/publications/health/Appendix%201.pdf>

and Survivors Groups had hoped that any agreed proposals, with State and Voluntary Agencies could have been incorporated into the Adoption and Children's Bill¹⁸. There has been a poor delivery of meetings with the consequence that the Bill has now reached its final stage and there is no opportunity to place into the Bill the views and suggestions of the Victims & Survivors Groups. It is clearly the view amongst Victims/Survivors that there is clearly a reluctance to resolve any/all matters. Such matters include the inconsistent and unacceptably archaic and dismissive treatment of all those affected by adoption, and access to private/personal records including mothers of adopted persons who are legally barred from the pro-active searching of their adopted/missing/lost/disappeared children. Given the complex and interconnected nature of cross-border issues, this is an example of how issues could be managed and resolved through a cross-border solution, giving opportunities and closure for so many.

Whilst in general there has been a practice or process to view this entire issue through the prism of the Irish Republic, we must deliver the recognition within this Bill, that many Victims, Survivors and their Families have been affected by 'trafficking' issues or practices, travelling in both directions within the island of Ireland. **This is the fundamental point which delivers a clear detriment in the collation and delivery of origin information, as we highlight in the previous section to this report and our Recommendation 10.**

Ministerial Commitment:

To contrast the error within the Bill against other discussions, we have noted the then First Minister of Northern Ireland (Arlene Foster) comments, who responded to the research into the operation of the Mother and Baby Institutions and Magdalene Laundries & Workhouses in Northern Ireland. On 26 January 2021, she is recorded as having stated that¹⁹:

"The records relating to mother-and-baby homes are not complete for all the institutions. A high percentage of the women and girls — around 86% — were from Northern Ireland. The others were from outside the jurisdiction. Around 11.5% of the women and girls crossed the border, and a small number came from Great Britain and elsewhere..."

What is indisputable is that there was a considerable movement of babies from Northern Ireland to the Republic of Ireland, in significant numbers: 202 babies from Marianvale from 1957 to 1982; 171 from Marianville from 1950 to 1990; 120 from Mater Dei from 1942 to 1970; and 58 from Thorndale from 1930 to 1970. How that came to be raises many more questions — questions that require answers...

The Health Minister, Judith Gillespie and the deputy First Minister and I have already raised the issue with the Minister of Children, Equality, Disability, Integration and Youth in the Republic of Ireland, Roderic O'Gorman. He has committed to considering the scope for cooperation in the area of adoption linked to mother-and-baby homes...

¹⁸ <http://www.niassembly.gov.uk/assembly-business/committees/2017-2022/health/primary-legislation/adoption-and-children-northern-ireland-bill/adoption-and-children-bill/>

¹⁹ <https://www.theyworkforyou.com/ni/?id=2021-01-26.5.1>

There was also the cross-border movement of women and children into and out of those institutions. In the same way that women from this jurisdiction were admitted to mother-and-baby homes across the border, as reflected already, women from across the border were also admitted to homes here...”

From these comments it can be seen that the issue of trafficking between Institutions, Religious Orders or denominations was evident. Equally, it is clear that Minister O’Gorman responded to the First Minister positively on the issues she raised. On the issue of cooperation, the provisions within this Bill have failed to deliver on his commitment to the First Minister and indeed to the evident Victims, Survivors and their Families when seeking their origin information

A Stranded North/South Solution?

It is therefore apparent that the issue for many Victims, Survivors and their Families is one of Tracing and Identity and understanding their personal history, culture & heritage, in addition to identifying the wrongs and/or harm that has been committed against them.

As we can see from the statement of the NI First Minister, the solutions have tended to be NI centric in the same way that the Irish Republic has managed the same issue ^{20 21}.

Since the late 1998, the island of Ireland has enjoyed a relative peace following the Good Friday Agreement. That Agreement produced 3 pertinent and dedicated strands to engender cross-border cooperation on a multitude of issues.

Strand 1 established the Northern Ireland Assembly and the Northern Ireland Executive.

Strand 2 created 3 bodies:

- The North/South Ministerial Council (NSMC);
- The North/South Inter-parliamentary Association, and
- The North/South Consultative Forum.

The first of these bodies has been relatively successful. However, given the recent difficulties surrounding the NI Brexit Protocol and the reactions to the established Political Institutions, SALI has concluded that dependence on the NSMC mechanism could be viewed as unreliable in a volatile and fragile political environment. SALI would propose other Strands of the GFA to ensure a continued flow of action and initiate urgent dialogue for the multi-state governments to charter pathways for cross-jurisdictional collaboration, on access to and sharing of information pertaining to personal, Institutional and governmental records as strongly recommended and supported by the NI Research and RoI Commission of Investigation into Mother & Baby Reports of January 2021.

²⁰ <https://www.theguardian.com/uk-news/2015/jun/25/irish-cardinal-admits-inquiries-into-child-rape-priest-were-only-to-protect-church>

²¹ <https://www.dailymail.co.uk/news/article-2547145/Nuns-forced-children-eat-vomit-soiled-bedsheets-heads-punishment-care-homes-largest-inquiry-institutional-child-abuse-told.html>

We know that minimal talks have taken place at Ministerial level between the two jurisdictions on this island, but we remain oblivious to the detailed content and outcome of those talks.

The second body has met though enjoys a lesser success than the primary body. The Consultative Forum has enjoyed less success and it is noted that within the NSMC minutes (December 2015), the minutes record that on this key Consultative Body, they record, as they did in previous minutes that:

*“Ministers noted the current position on a North South Consultative Forum”.*²²

There is clearly no opportunity, as yet, for ordinary Citizens and the broader Civil Society to contribute on important social matters for consideration by the NSMC. It is clear that Victims, Survivors and their Families rely on politicians and the NSMC to advocate and act on important cross-border social matters.

Strand 3 deploys an east-west strand to the North/South issues, perhaps by acting as guarantors to the Good Friday Agreement, through the British/Irish Intergovernmental Conference, the British/Irish Council, and the British/Irish Parliamentary Assembly (last met on 1/3/22²³)? SALI has noted that the minutes of these meetings do not appear to discuss the creation and operation of a North/South Consultative Forum.

The devil is in the detail:

SALI considers that at the core of any Birth Information and Tracing Bill, there is an absolute and unconditional need to address this important cross-border issue. In our view, this can be principally achieved through the ‘Good Friday Agreement’ (GFA) (also known as the Belfast Agreement - BA)²⁴. The pathway to developing cross-border solutions can be demonstrated through the GFA (BA); we would summarise the following as providing the framework for the establishment of that cooperation:

- Strand 1 - point 18 - The First Minister (FM) and the Deputy First Minister (DFM) of NI, will deal with and coordinate the work of the Executive Committee and provide responses to external relationships;
- Strand 1 - point 30 - In accordance with point 18 the FM and DFM will represent the Assembly as a whole and they will ensure cross-community involvement;
- Strand 1 - point 34 - There will be established a Civic Forum, created as a consultative mechanism to provide opinion/guidance on social, economic and cultural issues;

²² <https://www.northsouthministerialcouncil.org/sites/northsouthministerialcouncil.org/files/publications/%5Bcurrent-domain%3Amachine-name%5D/Twenty%20First%20Plenary%20Joint%20Communiqué%20-%202011%20December%202015.pdf>

²³ <https://www.oireachtas.ie/en/press-centre/press-releases/20220301-61st-plenary-of-the-british-irish-parliamentary-assembly-concludes-in-london/>

²⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/136652/agreement.pdf

- Strand 2 - point 1 - There will be established a North/South Ministerial Council (NSMC) to act in consultation, cooperation and action, within the island of Ireland on matters of mutual interest and within their competence;
- Strand 2 - point 5 (i) - The role of the NSMC will include the exchange of information, to discuss and consult, with a view to cooperate on matters of mutual interest within their competence;
 - Point 5 provides an Annex for North/South cooperation (a list is provided). The list provided suggests that it 'may' include what is set out but this suggests that such a list is not limited;
- Rights, Safeguards & Equality of Opportunity - Human Rights - point 1 - An affirmation is made that all parties are committed to mutual respect and the civil rights of everyone in the community. We note the provision that a right exists of equal opportunity in all social activity;
- New Institutions in NI - point 5 - This created the establishment of the NI Human Rights Commission, which we note should be empowered to bring court proceedings or to provide assistance to individuals doing so;
- We note that there are comparable steps required by the Irish Republic;
- A Joint Committee - point 10 - We have noted that a Joint Committee, involving representation from both North and South Human Rights Commission's should be created and act as a forum for consideration of Human Rights issues in the island of Ireland;
- Reconciliation & Victims of Violence - point 12 - Whilst this sections focus is centred upon the victims of violence in NI, it nonetheless has analogy and relevance to our own Victims, Survivors and their Families. We note that as part of the suggested reconciliation process offered by this section, that victims have a right to remember as well as contribute to a changed society. Our own Victims, Survivors and their Families, whichever side of the border they live or the circumstances that are relevant to them have under this point a right not to be forgotten and be recognised as society's witnesses through their living testimony;
- In general, we note the NI opportunities that exist to initiate or create legislation (noting the similar opportunity that already exists for the Irish Republic), contained within the GFA (BA);
- We note that these provisions are supported by the Articles of the Inter-Governmental Agreement of 10 April 1998;
- We note also the provisions contained within the recent Protocol between Ireland and the United Kingdom²⁵. In particular we note the provisions contained within Articles: 1 (1), 2 (1) & (2) and 11 (1) & (2) which provide continued recognition and support for the GFA (BA) as set out above.

We therefore strongly recommend, that within the Birth Information and Tracing Bill, that recognition is given to the mutually apparent issues that exist in the island of Ireland. It is

²⁵https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/840230/Revised_Protocol_to_the_Withdrawal_Agreement.pdf

imperative that this issue takes centre-stage in the construction of any legislative access to origin information and that full consideration and application is given to the GFA (BA) and that the discussions already commenced with Minister O’Gorman continue and are formalised through the GFA (BA) to produce the necessary outcomes for the Victims, Survivors and their Families. To secure that goal, SALI strongly recommends the following amendment be added to the Bill to not just anticipate developments of North/South cooperation but to deliver on that fundamental. Through its inclusion, this amendment obligates present and successive Ministers to take the requisite action for the benefit of Irish Citizens and those Citizens through mirror provisions, in the North of Ireland.

Recommendation 12 (the following amendment clause should be added to the Birth Information and Tracing Bill):

“ (1) All Local Authorities, the Minister, State Departments or other Bodies, as defined by Section 2 of the Act, or other Government Ministers, shall consider all actual and potential cross-border issues on the island of Ireland relating to all matters set out in this Act;

(2) Where such matters are identified, the parties identified within sub-section 1 above, whether they have established such matters through representations made by Victims, Survivors or their Families or through their own enquiries, shall inform the Minister without delay of the issues identified;

(3) The Minister informed of such issues shall urgently consult within 30 days of receipt of any cross-border matter relating to issues contained within this Act;

(4) The Minister shall take action required of him under International Agreements and in particular the Good Friday Agreement, to resolve cross-border issues of mutual concern and common interest relating to the issues contained within this Act;

(5) Upon satisfying the requirements of this section, the Minister shall:

(a) Keep the Oireachtas informed of those actions and progress on cross-border issues relating to matters contained within this Bill, and

(b) The Minister shall provide a regular update as to the progress of cross-border matters relevant to this Act to the Victim and Survivor Groups and the Advisory Panel created by this Act”.

4. The O’Mahony Recommendations

“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and. as far as possible, the right to know and be cared for by his or her parents”²⁶

At the commencement of the report of Professor Conor O’Mahony into the ‘Proposals for a State Response into illegal Birth Registrations in Ireland’, he begins his commentary on the ‘Right to Identity’ by quoting the basis of those Rights directly from the UN Convention on the Rights of the Child.

In Section 2 of this Report, we have already commented upon issues related to the nature and extent of informed consent, our objection to birth registrations as being cited as ‘inaccurate, along with the important issues relating to GDPR and data Rights. Professor O’Mahony’s commentary and recommendations, provides further confirmation of the need for the Oireachtas and the Irish government to take great care when designing and legislating for these issues through the BITB.

To add to our own commentary, we will highlight some of the key recommendations of Professor O’Mahony, along with additional commentary in support.

Recommendation 1: “Every person has a legal right to have their identity (including their parentage and their date and place of birth) accurately recorded. The Irish State is obliged to take measures to ensure that this occurs; to mitigate risks that birth registrations may be falsified; and to investigate and remedy instances of incorrect registration”.

SALI wholeheartedly supports this recommendation.

Recommendation 2: “In spite of having knowledge since the early 1950s of the possible existence of a practice of illegal birth registrations and having received an actual admission of the practice as early as 1992, the State failed until 2010 at the earliest to take sufficient steps to prevent the practice; to investigate its scale; or to remedy its effects. These failures exacerbated the impact of illegal birth registration on the persons affected and amounted to a violation of the right to identity under domestic and international law. It is incumbent on the State to take all practicable measures to remedy these violations without further delay”.

SALI notes that this recommendation cuts to the heart of a narrative that supports the notion that these records were solely ‘inaccurate’, as we have outlined in Section 2 above.

Recommendation 6: “Adoption tracing legislation providing for unqualified access to birth certificates, adoption files and other early life information, both for formally completed adoptions and for incomplete adoptions which resulted in an illegal birth registration, should be enacted at the earliest possible opportunity”.

SALI notes that the limitations expressed reflect our own concerns within Section 2 above. We support the call for “unqualified access” to all origin information.

²⁶ <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>

Recommendation 7: “Adoption records currently in private hands should be acquired by the State and held in a centralised archive”.

Of all the recommendations made, SALI considers that this is the one that requires the most urgent attention. In our Section 2 above, we highlight our deep concerns over the proposals contained within Part 7 of the BITB. **It is imperative that the Irish government takes immediate steps to give effect to our own recommendations and that of Professor O’Mahony.**

Recommendation 9: “A Specialist Tracing Team should be established and provided with ring-fenced resources that ensure that it does not negatively impact on other adoption tracing work”.

SALI has considered the issues at the O’Mahony Recommendation 9. It raises important issues in relation to the definition of ‘Relevant Person’ within the BITB. It is SALI’s view that the definition of ‘Relevant Person’ must be extended to incorporate the relatives (of several generations) of any deceased or incapacitated ‘Relevant Person’. This category extension would reflect the reality that many relatives face in trying to track and understand their origin information.

Recommendation 10: “The Specialist Tracing Team should conduct a full trace on files flagged by Tusla as suspicious in the course of the independent review process, with a view to establishing which (if any) of these cases can be confirmed as cases of illegal birth registration, and identifying the potential for further targeted investigation of other adoption files. Files currently in private ownership (which to date have not been reviewed for evidence of illegal birth registration) should be subject to an initial sample review by the Specialist Tracing Team, followed by whatever more detailed review is warranted by the results of the initial review”.

In relation to the O’Mahony Recommendation 10. We have noted the response from the Irish government. If we are to achieve an ‘ethical, sensitive and fully supported’ review of an initial sample, then there needs to be transparency over who carries out such an ethical consideration. SALI considers that it is important for the Victim/Survivor Community to input into and approve any draft ethical guidelines that may be used in this scenario; these ethics are the basis for contract and practice and will engender a greater confidence in the process.

Recommendation 11: “If necessary, the Birth Information and Tracing Bill should provide for legal authority for the work of the Specialist Tracing Team, as well as any similar future activity by either Tusla or the Adoption Authority of Ireland aimed at investigating historical irregularities in adoption practices”.

In relation to the O’Mahony Recommendation 11, the phrase, “if necessary” is used. SALI absolutely believes that in order to achieve the objectives in this Recommendation, it is vital that the work of the Tracing Team and any other bodies are placed on a statutory footing.

Recommendation 12: “There should be a right to request the Specialist Tracing Team to conduct an expedited review of cases involving a reasonable suspicion of illegal birth registration. This right

should extend both to the person potentially affected and to their children. Such reviews should involve the use of both documentary and DNA evidence”.

SALI considers that the proposals from Professor O’Mahony require further consideration, particularly in relation to the ‘legal authority’ that would be given to the ‘Specialist Tracing Team’. **Such legal authority should ensure that the cohort described in Recommendation 12 should not just be limited to ‘children’ but also to the many generations of family members who seek the truth of their origins.**

Equally, we remain concerned by the organisations highlighted in Professor O’Mahony’s Recommendation 12. We again highlight the general experience of one of those agencies in our Section 2. **Apart from resource issues, we should be resistant to simply utilising established structures who have historically attracted a level of low-confidence and distrust amongst Victims/Survivors. We would suggest that there would have to be also included a requirement of a root and branch reform, not just in practice but also through training/upskilling. In addition there is a need to see demonstrable reform in the culture of many of these organisations and also we would suggest, within those considered under the powers granted to the Minister to appoint other organisations.**

Recommendation 13: The State should facilitate the availability of support services for persons affected by illegal birth registrations, including (but not limited to) counselling supports, family mediation services, support groups and genealogical research assistance. Appropriate funding should be provided for such services.

SALI has noted the State response to the O’Mahony recommendation. We would refer to our response in relation to Recommendation 12 above where we speak about the need to see demonstrable progress on:

- Low-confidence in the service providers;
- Distrust of the service providers;
- The requirement to have a root and branch reform of practices;
- The requirement for a root and branch reform of training and upskilling;
- The need for a demonstrable reform of an organisation’s culture.

We have noted the cited reference to Barnardo’s within the State’s response to this Recommendation. SALI is aware of the role that this, and other organisations (including religious), engaged in through cross-border adoption practices. SALI is not yet aware if Barnardo’s has ever contributed or have been invited to any financial redress scheme, despite the public awareness and its own admissions for the substantive roles in historical institutional abuses and practices^{27 28}. It is SALI’s fear that any potential amnesty that could be granted to Barnardo’s or other organisations practices, could be widened to include any charitable or religious body presently

²⁷ <https://www.irishtimes.com/news/social-affairs/there-may-be-15-000-illegal-adoptions-barnardos-head-claims-1.3513517>

²⁸ <https://www.bbc.co.uk/news/live/uk-northern-ireland-60665887>

involved, and re-invented to participate in altruistic, philanthropic and/or human rights ventures. SALI does not consider that is either tenable nor acceptable within any form of justice, truth or accountability process, where the lack of such remorse and redress, substantiates and delivers a wholesale impunity.

SALI considers that any organisation with a longstanding historical involvement should be subject to the requirements as we have outlined above, which should be publicly verified. We remain steadfast in belief that each affected person of institutional crimes and abuses should be informed of any involvement in any current service provisions e.g. counselling, residential, palliative care in order that each individual can choose who offers particular personal services, so as to mitigate against repetition of a failure in the delivery of care/support services, by those same or similar agents/organisations, who have demonstrated a past questionable and/or proven maltreatment. The Victim/Survivor Community must be given a choice.

Recommendation 14: “The Birth Information and Tracing Bill in its enacted form should ensure that DNA evidence can play a full part both in tracing and in the provisions governing the correction of the register and adopt an approach that is not unduly prescriptive in respect of what forms of DNA evidence or information from genealogical databases will be accepted”.

SALI fully supports this recommendation.

Recommendation 16: “Provision should be made to cover legal costs of persons affected by illegal birth registrations. Such provision should be sufficient to ensure that individuals who need to apply for a declaration of parentage (including potential DNA testing) should be in a position to make an application without undue delay”.

SALI notes the general theme in Professor O’Mahony’s work, that of the inequality of access to the Right to a Remedy. The government should implement this recommendation to ensure and equal access to Justice.

Recommendation 17: “A State inquiry into illegal adoptions (broadly defined) should be established on a non- statutory basis. The inquiry should adopt the truth commission model and be informed by principles of transitional justice (elaborated on in section 7 above). The scope, composition and working methods of the inquiry should be determined in consultation with persons affected by illegal adoptions, and consideration should be given to including such a person as a full member of the inquiry”.

SALI fully supports this recommendation from Professor O’Mahony and in particular the model he has proposed for such a State Inquiry. **However, the creation of this model should not be limited to a Consultation, but it should be modelled on a co-design process and include a ‘decision-making’ process for the Victim/Survivor Community. We would add that that there should be more than one Victim/Survivor of illegal Birth Registrations, perhaps limited to a maximum of 3 members. We would also encourage that the State Inquiry establishes a Consultative Panel for the benefit of the State Inquiry composed of Victims/Survivors of Illegal Birth Registrations.**

SALI Recommendation 13: “SALI recommends that the government give urgent and due consideration to the recommendations from Professor O’Mahony. Equally, the government should acknowledge our own detailed observations and recommendations to the O’Mahony recommendations, contained in Section 4 of our report. In particular, the limitations in the BITB, the right to “unqualified access”, the concerns over Part 7 of the BITB and the issue of retained records by Church Bodies or other organisations, to ensure that family members are not just limited to ‘children’ on DNA issues, acknowledging the SALI concerns on the use of established bodies as highlighted in our Section 2 and upon the commentary of Professor O’Mahony, the right to legal aid and the composition of any State Inquiry and the creation of a Consultative Panel to support the State Inquiry”.

5. SALI Recommendations

The Irish Government and the Oireachtas Committee for Children, Equality, Disability, Integration & Youth, are requested to give due consideration to this report and to the SALI recommendations:

Recommendation 1: The SALI recommends that the Irish government imports all of the aforementioned factors, as the basis of reconsidering and re-designing a new methodology for the BITB. It is vitally important therefore, when importing the principles of this section and of other comments and recommendations within this report, that due regard is given to every survivor and their Families, affected by the index and continued failures of State and Religious Institutions. Only then can survivors be confident that they join their fellow Irish Citizens and enjoy the rights that many take for granted.

Recommendation 2: SALI recommends that the Irish Government redrafts the Bill into “Plain Text”, in other words, into useable language that offers clarity of purpose for all parties affected by the provisions of this Bill.

Recommendation 3: SALI recommends that in consideration of the need to redraft the Bill into “Plain Text”, there is a fundamental need to consider the conditional, incorrect and limiting language used by the introduction to the Bill. Reference should be made to our observations and necessary and fundamental changes must be applied.

Recommendation 4: SALI recommends that the phrase - “Incorrect Birth Registrations” should be amended to read - “Illegal, False or Inaccurate Birth Registration”.

Recommendation 5: SALI recommends:

- The complexity of methodology is re-examined with a purpose to simplify the actual process to access key pieces of origin information;
- The complexity of language is reconsidered and redrafted into “plain text” as we have previously recommended;
- That care is deployed in any use of language that unintentionally imports the potential for an ‘authority’ to interpret data protection rights;
- That in any information relating to a genetic relative, that a re-assessment is carried out about this extremely limiting provision and at the very least, information as to the gender of the genetic relative is provided.

Recommendation 6: SALI recommends that the Government abandons the concept of a formal information session and simply provides information with a fact-sheet on the nature of data and

privacy rights, without imposing any obligation on the applicant upon receiving that information.

Recommendation 7: SALI recommends that on the issue of historical consent that:

- The Irish Government guards against reliance on historical consent as being the justification for measures in the Bill to introduce a disproportionate balance against a greater cohort;
- That in this consideration, the Government must ask the question and investigate how historical consent was obtained before created legislative provisions;
- That a further examination is carried out as to the provisions found under Section 42 and the transference of historical consents and the automatic reliance on those consents in any decision-making process;
- That no 'authority' or other body, so transferring data under Section 42, deletes any data within the stated timeframe and that such data is permanently preserved in order to reduce incidents of data loss or errors in data transfers.

Recommendation 8: SALI recommends that:

- The Irish Government publishes its analysis of whether the Bill complies with European Law and whether any restrictions relied upon deliver disproportionality into its provisions;
- A clear statement is provided to all parties that privacy is not an absolute right as declared by the GDPR;
- In examination of the BITB, the words 'complaints', 'dispute' or 'appeal' does not feature in its text. This suggests that there is no right of challenge, other than appealing to the ICO or going to the courts. Therefore, in order to lessen the distress of applicants, the Government must introduce a Mediation process, paid-for by the State to deal with any potential disputes. If that process fails, then nothing should prevent an applicant from seeking to resolve their complaints through other sources;
- The Irish Government should pay heed to the development of National European Law on the question of 'inheritance' of the deceased's data, as outlined in our commentary, and amend the Bill to consider and extend the rights of Survivors;
- The Irish government to carefully consider the use of under-resourced existing Bodies and ensure that there is a clear cataloguing, searching and sharing of information with Victims/ Survivors and their families

Recommendation 9: SALI recommends that the Irish Government establishes a Stakeholder Advisory Group who would be tasked to oversee, consult, to participate and to be given decision-making power and equality in the drafting of guidelines by the Minister. The composition of such a Group should be drawn widely from Civil Society.

Recommendation 10: SALI recommends that in its comprehensive review of the Bill:

- That the familial category of people is defined so widely, that no relative is debarred or suffers from narrow qualifying criteria that the Bill seeks to provide, and
- That a greater clarity is given to ensure that such provisions not just apply to those who were ‘adopted’, but to all those who were subjected to other care arrangements.

Recommendation 11: SALI recommends that the BITB be substantially amended, to immediately freeze any potential dispersive actions and to capture all records held by the Church and Religious Orders or other Organisations (for example, records detailing, birth, baptism, confirmation, marriage, death timelines within diocesan/parish registers; this list is not intended to be exhaustive), that deal specifically with all Magdalene Institutions. Further, the Irish Government should take immediate steps to secure such record holdings, either through direct actions via the courts for example through an ex-parte or without notice interim mandatory injunction, emergency legislation or, through the discretionary powers of the President under Article 13 (9) of the Irish Constitution.

Recommendation 12 (the following amendment clause should be added to the Birth Information and Tracing Bill):

“ (1) All Local Authorities, the Minister, State Departments or other Bodies, as defined by Section 2 of the Act, or other Government Ministers, shall consider all actual and potential cross-border issues on the island of Ireland relating to all matters set out in this Act;

(2) Where such matters are identified, the parties identified within sub-section 1 above, whether they have established such matters through representations made by Victims, Survivors or their Families or through their own enquiries, shall inform the Minister without delay of the issues identified;

(3) The Minister informed of such issues shall urgently consult within 30 days of receipt of any cross-border matter relating to issues contained within this Act;

(4) The Minister shall take action required of him under International Agreements and in particular the Good Friday Agreement, to resolve cross-border issues of mutual concern and common interest relating to the issues contained within this Act;

(5) Upon satisfying the requirements of this section, the Minister shall:

- A. Keep the Oireachtas informed of those actions and progress on cross-border issues relating to matters contained within this Bill, and
- B. The Minister shall provide a regular update as to the progress of cross-border matters relevant to this Act to the Victim and Survivor Groups and the Advisory Panel created by this Act”.

SALI Recommendation 13: “SALI recommends that the government give urgent and due consideration to the recommendations from Professor O’Mahony. Equally, the government should acknowledge our own detailed observations and recommendations to the O’Mahony recommendations, contained in Section 4 of our report. In particular, the limitations in the BITB, the right to “unqualified access”, the concerns over Part 7 of the BITB and the issue of retained records by Church Bodies or other organisations, to ensure that family members are not just limited to ‘children’ on DNA issues, acknowledging the SALI concerns on the use of established bodies as highlighted in our Section 2 and upon the commentary of Professor O’Mahony, the right to legal aid and the composition of any State Inquiry and the creation of a Consultative Panel to support the State Inquiry”.

5. Conclusion

Whilst we are critical of the Birth Information and Tracing Bill, the SALI members consider that they have offered a reasoned critique of the contents of the draft Bill.

SALI considers that it is vitally important to consider carefully not just the terminology and language of the Bill, but also the very real potential to exclude family stakeholders to access key origin information.

Equally, the Minister must heed our very strong concerns over what we consider as a delaying provision through the introduction of an enter/search/seize set of powers, when it is clear that the government can and should take action to secure all records, be they held by a State Authority or a Religious entity.

It is clear that the Bill only presents half of the reality that many Victims and Survivors found themselves in, and that is through the fundamental error to fail to deal with the obvious trafficking between the Irish Republic and Northern Ireland.

We hope that the Minister will not only heed, but act on the strong recommendations contained within this report.

A failure to do so, will only lead in our opinion, to further pain and distress, whatever the potential for the government to be trapped in a cycle of court challenges. If the government fails to mitigate this latter point through effective and just legislation, it will join the failed list of political actions on this distinct point.

The Minister should heed the words of the Author Ralph Ellison:

“When I discover who I am, I’ll be free”.

These words are engrained into the mind of every Victim, Survivor and their Families!

SALI:

Breeda Murphy, Eunan Duffy, Frank Brehany

17 March 2022

The Authors:

Breeda Murphy

Breeda is committed to issues of social justice and in particular societal structure and how power is controlled to deny certain groups of people their rightful place in society.

Breeda began researching and working in the area of disability in the 1990's and returned to studies at NUIG to research the 'Forgotten Irish'; people who had left Ireland for the UK, during and following the war, to rebuild Britain and support families in Ireland by way of remittances.

Breeda argues that those men and women built the Irish system of health, education and social care by sending monies home regularly. It was while researching in London that Breeda first met women and men from Ireland's maze of institutions who left for Britain as teenagers.

The recent Commission's report looked at exit pathways; many stigmatised within their own country 'took the boat' to begin a new life without support structures. She cites that those men and women are her heroes, forgotten sadly by two communities – the one they left behind and the one they contributed to and yet, being Irish felt an outsider in.

Over six years ago Breeda began working with survivors of Tuam Mother and Baby Home and witnessed the weight of testimonial evidence, then largely ignored by the Government.

Breeda vowed to advocate alongside survivors and families of the lost children in an effort to garner support and convey the imbalance of power which remains evident today. Breeda when asked 'Why', replies that on witnessing injustice reined upon such vulnerable people, one cannot walk away.

Working at grassroots Breeda has enabled those affected to avail of tangible support, including grant aid, and new independent social housing, in collaboration with Galway County Council, medical support from HSE and the recording of testimonies in a dedicated archive held at NUIG. Today Breeda advocates alongside survivors and families seeking answers from Religious Orders and the Government. Survivors Breeda engage's with are located in the North and South of Ireland, the UK and the United States. Collectively, they are eager to ensure the survivor narrative, speaking truth to power, rises above the din of conjecture contained in state commissioned publications.

Eunan Duffy

Eunan is an Adoptee, Activist and Advocate. He was adopted from the Marianvale, Mother & Baby/Magdalen Institution in Newry, Co. Down; this Institution was operated and owned by the Good Shepherds Sisters from 1946 until 1984.

Eunan only became aware of his adoption circumstances in 2016, when it became necessary for him to provide a full birth certificate, as part of satisfying marriage requirements in Poland.

This life-changing revelation had a profound impact on Eunan and his family.

Added to his personal and family concern, was made all the more worrying, through the subsequent discovery that the origins of his adoption involved one of many and now infamous carceral institutions, renowned for a catalogue of Human Rights abuses and crimes.

For Eunan, the immediate challenge became a race against the clock to try and trace his biological origins, identity and heritage, within a system still designed to obstruct and discourage the discovery of family roots and medical genesis.

That was one battle within the complex war that he has overcome and conquered.

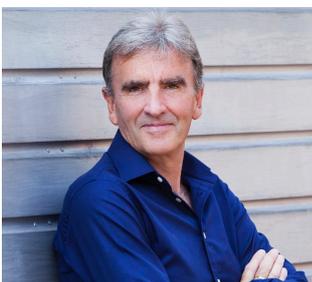
Through his commitment and work, Eunan has helped reunite 7 separated families in the last 2 years, who were associated with the issues common to Eunan's experience.

Eunan considers that yet again, it is those affected who are doing the heavy-lifting, where the State has continued to abdicate its responsibilities in assisting with reunifications, via archaic and discriminatory legislation, and in some cases actually went further in abetting the obstruction of reunion.

Eunan acknowledges that many continue their quest for their origins; they have and will continue, now and in the future, to struggle in the same vein for the ultimate truth, disclosure and justice.

For Eunan, he believes that his work is not yet complete and is dedicated to ensure that the battle for his own truth and that of others goes on!

Frank Brehany



Frank is a dual-Citizen, one of which delivers long-standing European Citizenship. He is a medically retired Police-Officer and qualified in 1997 as a practising Solicitor, working initially in formal legal practice. This led to ownership and management of a National Consumers Organisation in the UK. Frank's interests in Law covers not just Consumer Law, but also the problems found within Consumer Contracts, European Law, Human Rights and National and cross-border solutions to Consumer problems. He has extensive media experience, and comments on Legal issues for Consumers, Travel Trends and the Travel related problems experienced by Consumers. Frank

continues as a self-funded practising solicitor, not currently working in Legal Practice, but he maintains his competency as required by the Solicitors Regulatory Authority of England & Wales. Frank applies his legal training and experience, to develop solutions within the Standards-making and Political environments.

He has never been a member of any political party or grouping and he voluntarily subscribes to the Nolan Principles for Standards in Public Life.

Frank's interest in the 'Magdalene' story stems from the fact that his family held a 'secret', stretching across the decades. He discovered that his Father was a 'Magdalene Child' and was separated from his Mother and subsequently 'boarded out'. His GrandMother was incarcerated within the Mother & Baby Home and Magdalene Laundry Institutions for 42 years, until her death, never to be reunited with her child or family.